



Dissenting report – Labor Senators and Members

JSCEM inquiry into the Commonwealth Electoral Amendment Bill 2016
Dissenting Report by Labor Senators and Members

1. Labor Senators and Members recognise there are legitimate concerns about the laws governing the election of Senators and the outcome of the 2013 half Senate election. No system is perfect - the current system for electing Senators is no exception.
2. We believe the appropriate response is for the Parliament to deal with these concerns through a considered, principled and transparent process, involving all parties and, importantly, unaligned Senators and Members, to devise a solution which enjoys support across the political spectrum and prioritises the democratic interests of the Australian people above all other interests, especially the partisan self-interest of some established parties.
3. The Commonwealth Electoral Amendment Bill 2016 grossly fails this test. It is a perverse response to concerns about the outcome of the half Senate election in 2013, driven not by the democratic interests of the Australian people, but, rather, the political self-interest of the Liberal Party and the Greens political party.
4. This Bill will have the effect of maximising the number of Senators elected representing major parties, such as the Liberal Party, and established minor parties such as the Greens political party. This will deprive independents and so-called "micro parties" of votes and prevent new entrants from achieving election to the Senate, thereby entrenching the dominance of existing parties. If the Liberals and the Greens engaged in this conduct in trade or commerce they could be prosecuted for cartel behaviour.
5. Respected electoral analyst Mr Antony Green gave evidence that, under this system, at the 2013 Federal Election:
 - a) The Labor Party would have won a second seat in South Australia and Western Australia;
 - b) The Liberals would have won an extra seat in Victoria and Tasmania;
 - c) Senator Xenophon would have won an additional seat in South Australia; and
 - d) Greens Senator Sarah Hanson-Young would have lost her seat.
6. Worse still, the deal between the Liberals and the Greens demonstrates complete disregard for the democratic interests of Australians who vote for someone other than the major parties and established minor parties. At the 2013 Federal election, 3.3 million Australians voted for somebody other than the established players – the Liberal/Greens deal will see these voters disenfranchised.

7. The assertion by the Liberals and the Greens that this Bill essentially implements the relevant recommendations of this Committee in its *Interim report on the inquiry into the conduct of the 2013 Federal Election* is a dishonest farce.
8. This Bill does not implement the recommendations of that JSCEM report. The Liberal Government has not even bothered to respond to this report. It is incumbent upon Senator Di Natale and the Greens to explain to the Australian people how they can have any confidence that the Liberal Government has faithfully implemented the recommendations of the JSCEM report when the same government has not even responded to that report.
9. Furthermore, it is incumbent upon Senator Di Natale and his Greens colleagues to explain to the Australian people how the Bill they have concocted with the Liberals could possibly be seen as implementing the JSCEM recommendations, when there are clear discrepancies between what JSCEM previously recommended and the approach taken in the Bill.
10. Parliamentary scrutiny in relation to this Bill has been a farce. The Bill has been rammed through this Committee with less than half a day of public hearings and without the opportunity for all interested parties to make submissions or appear to give evidence. The Department of Finance did not appear before the Committee to answer questions about policy, nor was the Committee able to answer questions of the Minister. The Bill was passed through the House of Representatives before the Committee had even reported. This demonstrates that the inquiry was nothing more than a sham designed to cloak the Bill in a veneer of respectability. The Chair's draft of this Committee report was not produced until 9.40pm on Tuesday 1 March 2016, with Labor Senators and Members forced to produce any dissenting remarks by 8am – less than 12 hours later. This entire process is contemptuous of the Parliament and exposes Senator Di Natale and the Greens political party's purported commitment to parliamentary democracy as nothing more than a fraud.
11. Perhaps most concerning is Senator Di Natale and the Greens political party's naïve decision to hand the Liberal Party the keys to a double dissolution election, and a joint sitting of the Parliament that will see the worst elements of the Abbott-Turnbull Liberal Government's agenda become law, including harsh measures from the 2014-15 Federal Budget.
12. Passing these retrograde changes to Senate voting legislation prior to the Budget sittings of the Parliament is a central plank in the Liberal Party's plans to hold a double dissolution election, to clear out the Senate cross-bench, increase its Senate representation and hold a joint sitting to enact its draconian political agenda without interference from the Upper House.
13. The Government already possesses two double dissolution triggers which could be put before a joint sitting providing they were rejected by the Senate again after a double dissolution election. This includes legislation which seeks to abolish the Clean Energy Finance Corporation – a key component of the previous Labor Government's efforts to combat climate change and move Australia towards a clean energy future.

14. There are several other Bills which have satisfied the first stage of the double dissolution trigger under section 57 of the *Australian Constitution*, as they have been rejected by the Senate on one occasion. If the Senate fails to pass them before Mr Turnbull's planned double dissolution election, they will also become double dissolution triggers. If the Senate again fails to pass those Bills after the double dissolution election, the Government will be able to ram them through the Parliament at a joint sitting.
15. Bills in this category include:
 - a) The Climate Change Authority (Abolition) Bill 2013, which as the name suggests would see the abolition of the Climate Change Authority; another critical agency in the fight against climate change;
 - b) The Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015, which will force unemployed young people to live on nothing for four weeks;
 - c) The Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014, which will force jobseekers to live on nothing for eight weeks if they fail to in certain circumstances;
 - d) The Australian National Preventive Health Agency (Abolition) Bill 2014, which as the name suggests seeks to abolish the Australian National Preventative Health Agency, a key agency in the fight against preventable illness and an important component of Australia's public health system; and
 - e) Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015, which seeks to double the amount of advertising permitted on SBS and push the SBS towards becoming a commercial television channel.
16. Senator Di Natale and the Greens political party voted against this legislation when it was previously before the Parliament – why are they now delivering to the Liberal Party the means to pass these Bills?
17. Mr Antony Green gave evidence to the Committee that, under the electoral system proposed by this bill, the Coalition would win 38 seats at a double dissolution election – enough to hand them a blocking majority in the Senate Chamber. Senator Di Natale and the Greens political party must explain to the Australian people why he supports handing control of the Senate to the Coalition.
18. Senator Di Natale's decision to provide the Liberals the keys to pass this legislation at a joint sitting of the Parliament following a double dissolution election is a betrayal of the claimed values of the Greens political party. It is difficult to identify any logic to this thinking.

19. Finally, the Australian Electoral Commission has advised that, at an absolute minimum, it will require 3 months from the time the bill is passed to implement any changes to the Senate electoral system. If this bill is passed, which the Australian Labor Party opposes, the Government must ensure the AEC is given at least 3 months to implement any changes, consistent with the clear evidence of the AEC.

20. **Recommendation:** Labor recommends the bill not be passed in its current form.